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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2008-325*

11 **THELMA C. MACABEO**
1742 Preuss Road
12 Los Angeles, CA 90035-4312

A C C U S A T I O N

13 Registered Nurse License No. 171365
Public Health Nurse Advanced Certification No.
14 11605

Respondent.

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16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H, R.N. (Complainant) brings this Accusation solely
19 in her official capacity as the Executive Officer of the Board of Registered Nursing (Board),
20 Department of Consumer Affairs, State of California.

21 2. On or about August 1, 1966, the Board issued Registered Nurse License
22 Number 171365 to Thelma C. Macabeo (Respondent). The Registered Nurse License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on October 31,
24 2009, unless renewed.

25 3. On or about April 18, 1967, the Board issued Public Health Nurse
26 Advanced Certification Number 11605 to Respondent. The Public Health Nurse Advanced
27 Certification was in full force and effect at all times relevant to the charges brought herein and
28 will expire on October 31, 2009, unless renewed.

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4. This Accusation is brought before the Board, under the authority of the

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5. Section 2750 of the Code provides, in pertinent part, that the Board may

6. Section 2764 of the Code provides, in pertinent part, that the expiration of

7. Section 496 of the Code states: “A board may deny, suspend, revoke or

8. Section 123 of the Code states:

“(a) Conduct which violates the security of the examination materials: removing

1 taken from any examination for the purpose of instructing or preparing any applicant for
2 examination; or selling, distributing, buying, receiving, or having unauthorized possession of any
3 portion of a future, current, or previously administered licensing examination.

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5 “Nothing in this section shall preclude prosecution under the authority provided
6 for in any other provision of law.

7 “In addition to any other penalties, a person found guilty of violating this section,
8 shall be liable for the actual damages sustained by the agency administering the examination not
9 to exceed ten thousand dollars (\$10,000) and the costs of litigation.

10 “(c) If any provision of this section or the application thereof to any person or
11 circumstances is held invalid, that invalidity shall not affect other provisions or applications of
12 the section that can be given effect without the invalid provision or application, and to this end
13 the provisions of this section are severable.”

14 9. Section 2761 of the Code states:

15 “The board may take disciplinary action against a certified or licensed nurse or
16 deny an application for a certificate or license for any of the following:

17 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

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19 “(d) Violating or attempting to violate, directly or indirectly, or assisting in or
20 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
21 Nursing Practice Act] or regulations adopted pursuant to it.”

22 10. California Code of Regulations, title 16, section 1411.6 provides:

23 “An applicant who takes the examination shall not disclose the contents of the
24 written examination questions to anyone other than a person authorized by the Board. No one
25 except as authorized by the Board shall solicit, accept, or compile information regarding the
26 contents of written examination questions, either before, during or after the administration of any
27 examination.”

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1 **COST RECOVERY PROVISION**

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
3 request the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **NCSBN/NCLEX**

7 12. The National Council of State Boards of Nursing (NCSBN) develops and
8 administers the NCLEX-RN examinations on behalf of the nursing boards in the 50 states, the
9 District of Columbia, and four U.S. territories. Every registered nurse must pass the NCLEX-
10 RN examination before s/he can be licensed to practice. NCSBN copyrights the NCLEX-RN
11 examination items. Retired items are not released to the public. Before the commencement of
12 an NCLEX-RN examination, each candidate must sign a confidentiality agreement.

13 **GLOBAL NCLEX REVIEW CENTER**

14 13. From about 2004 to the present, Respondent owns and/or otherwise
15 operates Global NCLEX Review Center (Global), located at 3255 Wilshire Boulevard, Los
16 Angeles, CA 90010. Global offers review courses to candidates who qualify to take the Board's
17 licensure examination. As part of the review course, students enrolled at Global are provided
18 with test booklets which contain sample test questions and answers.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Subverting Licensing Examination)**

21 14. Respondent's license is subject to disciplinary action under Code sections
22 496 and 123, in that Respondent engaged in acts which subverted the Board's licensure
23 examination. The circumstances are as follows:

24 15. From about 2005 to 2006, Respondent obtained and received Board
25 examination questions from her former students who recently took the Board's licensure
26 examination; had unauthorized reproduction of portions of the actual licensure examinations;
27 used the unlawfully obtained questions for the purpose of instructing or preparing other
28 applicants for the Board's licensure examinations; and distributed or had unauthorized

possession of portions of previously administered examinations.

16. These portions of illegally obtained Board licensure examination questions were compiled, reconstructed and reproduced in the 2006 version of Respondent's test booklets and distributed to the students of Global for preparation of the upcoming Board licensure examinations.

SECOND CAUSE FOR DISCIPLINE

(Violating Regulations Governing Examination Disclosure)

17. Respondent's license is subject to disciplinary action under Code section 2761, subdivision (d), in conjunction with California Code of Regulations, title 16, section 1411.6, for soliciting, accepting, and/or compiling information from candidates regarding the contents of written examination questions after the administration of the Board's licensure examinations. The circumstances are as described in paragraphs 14-16 above, and incorporated herein by reference as if fully stated.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

18. Respondent's license is subject to disciplinary action under Code section 2761, subdivision (a) for unprofessional conduct, in that Respondent violated the confidentiality of the Board licensure examination by accepting questions from her former students who were recent candidates for the examination, then compiled, reproduced and distributed those questions to other students. The circumstances are as described in paragraphs 14-16 above, and incorporated herein by reference as if fully stated.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 171365,
issued to Thelma C. Macabeo;

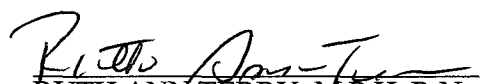
2. Revoking or suspending Public Health Nurse Advanced Certification
Number 11605, issued to Thelma C. Macabeo;

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3. Ordering Thelma C. Macabeo to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED: 5/20/08


RUTH ANN TERRY, M.P.H, R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant

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